

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

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Applicant's or agent's file reference STBR043156	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/FR2003/002679	International filing date (day/month/year) 09 septembre 2003 (09.09.2003)	Priority date (day/month/year) 09 septembre 2002 (09.09.2002)
International Patent Classification (IPC) or national classification and IPC A43B 13/14, 13/18, 13/12		
Applicant BABOLAT VS		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet. <input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT). These annexes consist of a total of <u>1</u> sheets.
3. This report contains indications relating to the following items: I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application

Date of submission of the demand 24 février 2004 (24.02.2004)	Date of completion of this report 07 December 2004 (07.12.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/FR2003/002679

I. Basis of the report

1. With regard to the elements of the international application:*

- ☒ the international application as originally filed
- ☒ the description:
 pages _____ 1-8 _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☒ the claims:
 pages _____, as originally filed
 pages _____, as amended (together with any statement under Article 19
 pages _____, filed with the demand
 pages _____ 1-6 _____, filed with the letter of 30 September 2004 (30.09.2004)
- ☒ the drawings:
 pages _____ 1/3-3/3 _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/FR 03/02679

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	2, 3, 4, 5, 6	YES
	Claims	1	NO
Inventive step (IS)	Claims	2, 5, 6	YES
	Claims	1, 3, 4	NO
Industrial applicability (IA)	Claims	1-6	YES
	Claims		NO

2. Citations and explanations

Reference is made to the following documents:

D1: US-A-5 572 805 (BROWN ROGER J ET AL) 12 November 1996 (1996-11-12)

D2: GB-A-2 256 784 (UHL SPORTARTIKEL KARL) 23 December 1992 (1992-12-23)

The present application fails to meet the requirements of PCT Article 33(1), since the subject matter of claim 1 does not comply with the criterion of novelty as defined by PCT Article 33(2).

D1 describes (the references between parentheses apply to said document): a shoe with a sole, of which the outer surface is intended to contact the ground and the inner surface is intended to contact a user's foot (column 7, lines 55 to 61), said sole comprising a dynamic member extending along and to either side of a longitudinal axis of the sole (figure 111); wherein the dynamic member, which comprises a lateral energy return plate (19), is located in the sole so that it extends longitudinally under an area corresponding to the arch of the foot and under a portion of the forefoot (figures 111 to 117) and includes, on either side of an area supporting the

metatarsal, two opposing lateral ground support portions (29), which are elastically deformable and interact in mutual opposition (column 2, lines 25 to 28), for storing and returning energy when said sole is subjected to lateral stresses (functional definition which also covers the stabilising member of D1).

In the light of D1 and D2 and the corresponding passages cited in the international search report, dependent claims 3 and 4 contain no feature which, when combined with the features of any one of the claims to which they refer, defines subject matter that complies with the PCT requirements of inventive step.

The combination of features of claims 2, 5 and 6 is not found in the prior art and cannot be derived in an obvious manner therefrom, for the following reasons: the cited prior art documents neither describe nor suggest such a combination of technical features.